

OFFICE OF THE ATTORNEY GENERAL

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Tax Assessors - Tax Sales -
Mapping Error - Refunds

Purchaser can recover the purchase price of property if the tax sale was in error. Section 40-10-101, Code of Alabama 1975.

Purchaser can recover taxes paid in error. Section 40-10-160, Code of Alabama 1975.

Dear Mr. Manasco:

This opinion is issued in response to your request for an opinion from the Attorney General.

QUESTION

When property is erroneously sold for unpaid ad valorem taxes, can the tax assessor refund the purchase price plus any taxes paid by the purchaser and void the sale?

FACTS AND ANALYSIS

Due to a mapping error on the part of the Winston County Tax Assessor's Office, a .1 acre parcel of property was sold at a tax sale. The Tax Assessor seeks to rectify the error by refunding to the purchaser the amount paid by him for the property, as well as all taxes paid since the purchase, and void the sale.

There is no authority for voiding the transaction described above. However, § 40-10-101, Code of Alabama 1975, does permit a refund.

This section states:

"When land has been sold for taxes and purchased by anyone other than the state, and the purchase money has been paid into the state and county treasuries, and it shall be made to appear to the satisfaction of the comptroller that such sale was invalid by reason of the fact that the taxes for which the land was sold were not due, the purchaser of said land, his heirs or assigns, upon the surrender of a certificate of purchase, shall be entitled to have the amount paid for the purchase of said land refunded to him, if application shall be made therefor as hereinafter provided, within two years from the date of sale and before the execution of a deed to such purchaser."

Section 40-10-102 sets out the manner in which the refund outlined above can be obtained.

Section 40-10-101 does not authorize the refund of any previously paid taxes. However, § 40-10-160 fills the void. Under this section, the taxpayer is allowed to recover taxes paid in error within two years of the date of payment. It states:

"Any taxpayer who through any mistake, or by reason of any double assessment, or by any error in the assessment or collection of taxes, or other error, has paid taxes that were not due upon the property of

such taxpayer shall be entitled, upon making proof of such payment to the satisfaction of the comptroller, to have such taxes refunded to him if application shall be made therefor, as hereinafter provided, within two years from the date of such payment."

Section 40-10-161 outlines the method in which the refund provided for in § 40-10-160 can be obtained.

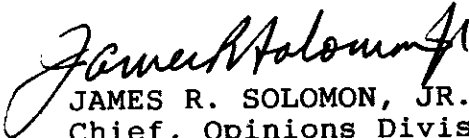
CONCLUSION

A purchaser can recover the purchase price paid for property at a tax sale, as well as any taxes subsequently paid on the property via §§ 40-10-101 and 40-10-160, Code of Alabama 1975, when said purchase and subsequent payment of taxes were in error.

I hope this sufficiently answers your question. If our office can be of further assistance, please contact Claude E. Patton, Legal Division, Revenue Department.

Sincerely,

JEFF SESSIONS
Attorney General
By:


JAMES R. SOLOMON, JR.
Chief, Opinions Division

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